

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments address issues arising in the implementation of the Iowa Electronic Health Record Incentive Program, as authorized by the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA provides incentive payments for the adoption, upgrade, and meaningful use of certified electronic health record technology. Rules to implement the program were published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9254B** and became effective January 1, 2011.

The proposed amendments would:

- Change the reporting period used for calculating the aggregate electronic health record hospital incentive amount to the hospital’s fiscal year, instead of the state fiscal year. Although many hospitals have the same fiscal year as the state, hospitals are not required to do so. With the proposed change, all hospitals will be able to use their cost report data without having to recalculate the data to conform to the state fiscal year, and the burden of verifying these calculations will be greatly reduced.
- For the same reasons, specify use of the hospital’s fiscal year as the period for calculating the Medicaid share of the aggregate amount.
- Clarify that a provider must satisfy all the criteria in subrule 79.16(2) to be eligible for the Electronic Health Record Incentive Program.
- Add a definition of “pediatrician” to clarify which physicians may qualify for the incentive with 20 percent Medicaid patient volume instead of 30 percent.

These amendments do not provide for waivers in specified situations. Providers may request the waiver of any rule under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 12, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 79.16(1) as follows:

79.16(1) State elections. In addition to the statutory provisions in ARRA Section 4201 ~~of the ARRA~~, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

- a. and b. No change.
- c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the state hospital fiscal year.
- d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend subrule 79.16(2) as follows:

79.16(2) *Eligible providers.* To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the ~~following criteria~~ applicable criterion in each paragraph of this subrule:

a. and b. No change.

c. For the year for which the provider is applying for an incentive payment:

(1) An acute care hospital must have 10 percent Medicaid patient volume.

(2) An eligible professional must have at least 30 percent of the professional’s patient volume covered by Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or who is eligible for board certification.

2. No change.